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August 30, 2013

Hon. Harold Baer, Jr.
U.S. District Court
500 Pearl Street, Chambers 2230
New York, NY 10007

Re: *Adkins et al. v. Morgan Stanley et al.*, No. 1:12-cv-7667 (HB)

Your Honor,

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
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OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

We represent Plaintiffs in the above-referenced civil rights action. We write to alert the Court to supplemental authority relevant to Plaintiffs' Opposition to Defendants' Motion to Stay Proceedings Pending a Decision by the Supreme Court in *Mount Holly*, or, in the Alternative, to Certify an Appeal Pursuant to 28 U.S.C. § 1292(b) (ECF No. 56).

On August 26, 2013, the petitioners filed their merits brief in *Township of Mount Holly v. Mt. Holly Gardens Citizens in Action*, No. 11-1507. (Attached hereto as Exhibit A.) The brief underscores that the issues in *Mt. Holly* are distinct from the issues in this case. It consists of two main arguments. First, it contends that disparate impact claims are foreclosed by the text and structure of 42 U.S.C. § 3604(a), the provision of the Fair Housing Act under which the *Mount Holly* plaintiffs brought their claims, *see Mt. Holly Br.* at 17-37; but Plaintiffs in this case proceed under a separate provision of the FHA, 42 U.S.C. § 3605(a)-(b). Second, the brief posits a constitutional avoidance argument relevant to disparate impact claims against municipal land-use policies. *See Mt. Holly Br.* at 37-48. Such arguments have little or no conceivable salience to the financial transactions regulated by § 3605 or to claims against a non-governmental defendant.

Plaintiffs respectfully submit that the brief filed in *Mt. Holly* clarifies the scope of the issues before the Supreme Court and further militates against delaying the proceedings in this case in anticipation of a ruling on a statutory provision not at issue here.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laurence Schwartz', with a long horizontal flourish extending to the right.

Laurence Schwartzol

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION